

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)
)
Richard K. Niedling and) Case No. 17-43886-399
Paula Jean Niedling)
)
) Chapter 13
Debtors.)

ORDER DIRECTING THE DISMISSAL OF THIS CASE

This matter comes before this Court on its own motion. The Court, having reviewed the case file, FINDS that:

1. On June 5, 2017, the Debtors filed a petition for relief under Chapter 13 of the United States Bankruptcy Code.
2. On the Debtors' bankruptcy petition, the Debtors checked a box certifying that within 180 days before the filing of the bankruptcy case the Debtors received credit counseling, and the Debtors had certificates of completion.
3. The credit counseling certificates filed by the Debtor shows that the credit counseling was obtained on September 15, 2016.

The Court makes the following CONCLUSIONS OF LAW:

- A. Pursuant to Section 109(h) of the Bankruptcy Code, an individual may not be a debtor in a bankruptcy case unless such individual has received, from an approved nonprofit budget and credit counseling agency described in section 111(a), pre-petition credit counseling during the **180 day period** preceding the filing of the bankruptcy petition. 11 U.S.C. § 109(h)(1) (emphasis added), see also *Duncan v. LaBarge (In re Duncan)*, 418 B.R. 278, 281 (B.A.P. 8th Cir.

2009)(citing *Dixon v. LaBarge (In re Dixon)*, 338 B.R. 383, 389 (B.A.P 8th Cir. 2006)(additional citation omitted)).

- B. The credit counseling was obtained by the Debtors more than 180 days before the Debtors filed the bankruptcy petition. Accordingly, the Debtors failed to obtain the credit counseling required by the Bankruptcy Code.
- C. Without the mandatory credit counseling, the Debtors are ineligible to be debtors in a case under the Bankruptcy Code.

Accordingly, this case shall be **DISMISSED** by separate order.

DATED: June 5, 2017

St. Louis, Missouri 63102

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Barry S. Schermer

Barry S. Schermer
United States Bankruptcy Judge

Copy to:

All creditors and parties in interest as set forth on the matrix